REMARKS

The above amendment and these remarks are responsive to the Non-Final Office Action of Examiner Florian M. Zeender mailed 01/22/2004.

Dependent claim 5 has been cancelled without prejudice, and the limitations thereof incorporated into independent claims 1, 11, and 19. Claim 6 has been amended to depend from claim 1 rather than cancelled claim 5. Independent claims 1, 11, and 19 have also been amended to more distinctly set forth an important feature of the present invention, to wit, specifying a parts procurement time performance measure for transfer of parts from stocking locations to customer locations, wherein equipment requiring the parts is installed at the customer locations, and maintaining inventory levels at the stocking locations such that the performance measure is met. Entry of this amendment is respectfully requested.

Claims 1-4 and 6-23 are pending in the case, with claims 20-23 having been allowed in an earlier office action mailed 09/03/2003, and the allowance of claims 20-23 subsequently having been withdrawn in the latest office action mailed 01/22/2004. Claims 14-18 have been withdrawn from consideration.

35 U.S.C. § 103

Claims 1-13 and 19-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. (US 6,324,522) in view of Feigin et al. (US 6,006,196).

Peterson et al. describe an information network for a

plurality of vendors where each vendor can transfer inventory to and from other vendors in the network using a formalized system of purchase orders containing information regarding the inventory to be transferred. The network described by Peterson et al. is a system for determining inventory available within the network at a given point in time and formalizing the transfer of this inventory between vendors. In contrast, Applicants' claimed invention is a method of determining inventory levels to deploy at a plurality of stocking locations during inventory planning, so as to have parts available for transfer to customer locations within a given period of time, wherein equipment requiring the parts is installed at the customer locations. Further, Peterson et al. lack the teaching of providing handling costs, travel time, specifying a parts procurement time performance measure, entering data into a computer program, computing inventory levels using the computer program, and ordering parts to maintain part inventory levels.

It has been alleged that Feigin et al. address the aforementioned deficiencies of Peterson et al. so as to render Applicants' claimed invention unpatentable, however Feigin et al. is also deficient in several respects. Accordingly, Applicants strenuously, but respectfully, traverse the allegation of unpatentability.

Feigin et al. describe a method of estimating future inventory replenishment requirements through statistical analysis of historical inventory demand data. While Feigin et al. do describe entering data, including a lead time, into a computer program, and using the computer program to compute inventory levels, the lead time "L" of Feigin et al. is merely an integer quantity indicating the number of weeks that are anticipated to

receive a particular order, as described in column 4, lines 60-65 of Feigin et al.: "the order lead time for a specific product at a specific location is L weeks". This is substantially different than the parts procurement time performance measure of Applicants' invention which is claimed as "the percentage of parts in said request rates which can be transferred from any said stocking location to each respective said customer location within a pre-specified time" in Applicants' amended independent claims 1, 11, and 19, as well as independent claim 20.

It has further been alleged that Feigin et al. teach Applicants' claimed parts procurement time performance measure in column 10, lines 39-54, specifically: "Method 1 estimates the fill rate to be 63% in weeks 6-16". However, upon closer examination of column 10, lines 39-54 of Feigin et al., "fill rate" is defined as "the fraction of demand that is filled off the shelf", which again is substantially different than "the percentage of parts in said request rates which can be transferred from any said stocking location to each respective said customer location within a pre-specified time" as claimed in Applicants' amended independent claims 1, 11, and 19, as well as independent claim 20.

Accordingly, Feigin et al. do not teach the parts procurement time performance measure of Applicants' claimed invention, and Applicants' amended independent claims 1, 11, and 19, as well as independent claim 20 are allowable.

It has also been alleged that Feigin et al. teach the transfer of parts from a supplier to a warehouse, and further from a warehouse to a retail location, and that in some instances, retail locations could be interpreted as customer

locations. Feigin et al. describe the transfer of parts from a warehouse to retail locations in column 5, lines 33-48, however this is different than the transfer of parts to customer locations, wherein equipment requiring the parts is installed at the customer locations, as claimed in Applicants' amended independent claims 1, 11, and 19. These claims, as currently amended, exclude the example of an automobile dealership cited in the office action mailed 01/22/2004. Specifically, an automobile being serviced at a dealership or other type of service station would not be installed at the dealership or service station, but rather would be driven there for service, and would be driven away once service is completed. Further, automobiles on a dealership lot which are being offered for sale would not be installed either.

Claims 9 and 23 have been rejected based upon a statement that "It is an obvious business practice to compute inventory levels that maximizes the number of parts transferred at a given cost in order for the business to be as efficient as possible and thus maximize potential profit", however no documentary evidence is proffered to support this allegation of obviousness. Accordingly, it is respectfully requested that the rejection of claims 9 and 23 under 35 U.S.C. 103(a) be withdrawn, and claims 9 and 23 allowed. **However, if this rejection is maintained, Applicants respectfully request that the Examiner provide an affidavit attesting to this statement pursuant to 37 CFR 1.104(d)(2).**

Peterson et al. and Feigin et al., neither by themselves, nor in combination, teach or suggest specifying a parts procurement time performance measure for transfer of parts from stocking locations to customer locations, wherein said parts

procurement time performance measure comprises the percentage of parts in the request rates which can be transferred from any stocking location to each respective customer location within a pre-specified time, nor wherein equipment requiring the parts is installed at the customer locations, nor ordering sufficient numbers of parts to maintain inventory levels at stocking locations, such that the performance measure is met, as required by Applicants' amended independent claims 1, 11, and 19, and claims 1, 11, and 19 are therefore allowable.

Further, Peterson et al. and Feigin et al., neither by themselves, nor in combination, teach or suggest specifying a parts procurement time performance measure for transfer of parts from stocking locations to customer locations, wherein said parts procurement time performance measure comprises the percentage of parts in the request rates which can be transferred from any stocking location to each respective customer location within a pre-specified time, as required by Applicants' independent claim 20, and claim 20 is therefore also allowable.

Accordingly, inasmuch as Peterson et al. and Feigin et al., neither by themselves, nor in combination, teach or suggest all of the steps, elements, or limitations required by Applicants' amended claims as is required in a 35 U.S.C. 103(a) rejection pursuant to MPEP 2143.03, it is respectfully requested that the Examiner withdraw the rejection of Applicants' amended independent claims 1, 11, and 19, as well as claims 20 and 23 under 35 U.S.C. 103(a), and allow claims 1, 11, 19, 20, and 23. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (emphasis added) Also, "All words in a claim must be considered

in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Furthermore, claims 2-4 and 6-10 depend, directly or indirectly, from allowable claim 1, claims 12-13 depend from allowable claim 11, and claims 21-22 depend from allowable claim 20. Claims 2-4, 6-10, 12-13, and 21-22 are therefore also allowable. Pursuant to MPEP 2143.03, "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Accordingly, it is respectfully requested that the Examiner withdraw the rejection of Applicants' dependent claims 2-4, 6-10, 12-13, and 21-22 under 35 U.S.C. 103(a), and allow claims 2-4, 6-10, 12-13, and 21-22.

CONCLUSION

The Application is believed to be in condition for allowance and such action by the Examiner is urged. Should differences remain, however, which do not place one/more of the remaining claims in condition for allowance, the Examiner is requested to phone the undersigned at the number provided below for the purpose of providing constructive assistance and suggestions in accordance with M.P.E.P. Sections 707.02(j) and 707.03 in order that allowable claims can be presented, thereby placing the Application in condition for allowance without further proceedings being necessary.

Respectfully Submitted,

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